

AMENDED IN ASSEMBLY JUNE 19, 2003

AMENDED IN SENATE APRIL 22, 2003

AMENDED IN SENATE MARCH 25, 2003

## SENATE BILL

No. 185

**Introduced by Senator Sher**

February 12, 2003

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An act to amend Sections 398.4 and 398.5 of the Public Utilities Code, relating to electricity.

### LEGISLATIVE COUNSEL'S DIGEST

SB 185, as amended, Sher. Electricity: source disclosure.

The existing Public Utilities Act, provides for the furnishing of utility services, including electricity, by privately owned public utilities subject to the jurisdiction and control of the Public Utilities Commission and similar services by publicly owned public utilities.

Existing law establishes a program under which entities offering electric services disclose accurate, reliable, and simple to understand information on the generation attributes of the electricity they propose to sell, including eligible renewables, as defined, and requires beginning March 1, 1999, and annually thereafter, that certain electricity source information be reported to the California Energy Resources Conservation and Development Commission (Energy Commission). *Disclosures to end-use customers are required to be made quarterly.* Existing law provides that a retail supplier of electricity that does not make any claims that identify its electricity sources as different than net system electricity is authorized to disclose net system electricity sources.

This bill would require that beginning April 1, 2004, and annually thereafter, that retail suppliers report the information to the Energy Commission. *Disclosures to end-use customers would be required to be made biennially.* The bill would delete the provision authorizing a retail supplier of electricity that does not make any claims that identify its electricity generation sources as different than net system electricity, to disclose net system electricity sources, and would require that all retail suppliers disclose electricity sources as specific purchases. The bill would also require the disclosure of electricity generated from an eligible renewable energy resource, as defined, identifying any renewable energy resource fuel type used to generate 1% or more of annual retail electricity sales.

Since existing law makes any public utility, as defined, and any person or entity other than a public utility, that violates the Public Utilities Act guilty of a misdemeanor, and the provisions of the bill would be within the act, this bill would impose a state-mandated local program by expanding a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 398.4 of the Public Utilities Code is  
2 amended to read:

3 398.4. (a) Every retail supplier that makes an offering to sell  
4 electricity that is consumed in California shall disclose its  
5 electricity sources as specific purchases.

6 (b) The disclosures required by this section shall be made to  
7 potential end-use consumers in all product-specific written  
8 promotional materials that are distributed to consumers by either  
9 printed or electronic means, except that advertisements and  
10 notices in general circulation media shall not be subject to this  
11 requirement.



1 (c) The disclosures required by this section shall be made at  
2 least ~~quarterly~~ *biennially* to end-use consumers of the offered  
3 electricity.

4 (d) The disclosures required by this section shall be made  
5 separately for each offering made by the retail supplier.

6 (e) On or before January 1, 1998, the California Energy  
7 Resources Conservation and Development Commission shall  
8 specify guidelines for the format and means for disclosure  
9 required by Section 398.3 and this section, based on the  
10 requirements of this article and subject to public hearing.

11 (f) The costs of making the disclosures required by this section  
12 shall be considered to be generation-related.

13 (g) The disclosures required by this section shall be expressed  
14 as a percentage of annual retail electricity sales derived from each  
15 of the following categories:

16 (1) Coal.

17 (2) Large hydroelectric (greater than 30 megawatts).

18 (3) Natural gas.

19 (4) Nuclear.

20 (5) Eligible renewable energy resource, as defined in Section  
21 399.12. Each eligible renewable energy resource fuel type that is  
22 used to generate 1 percent or more of annual retail electricity sales,  
23 shall be identified according to the percentage of annual retail  
24 electricity sales derived from that fuel type.

25 (6) Other.

26 “Other” shall be used for fuel types other than those listed  
27 above that represent less than 2 percent of net system power.

28 (h) The California Energy Resources Conservation and  
29 Development Commission may specify additional categories or  
30 change the categories specified in subdivision (g), consistent with  
31 the requirements of this article and subject to public hearing, if it  
32 determines that the changes will facilitate the disclosure objectives  
33 of this section.

34 (i) All electricity sources disclosed as specific purchases shall  
35 meet the requirements of subdivision (b) of Section 398.2.

36 (j) Specific purchases identified pursuant to this section shall  
37 be from sources connected to the Western Electricity Coordinating  
38 Council transmission system interconnected grid.

39 (k) For each offering made by a retail supplier, the retail  
40 supplier shall disclose projected specific purchases for the current

1 calendar year. On or before July 1, 2004, and annually thereafter,  
2 every retail supplier that discloses specific purchases shall also  
3 disclose to its customers, separately for each offering made by the  
4 retail supplier, its actual specific purchases for the previous  
5 calendar year consistent with information provided to the  
6 California Energy Resources Conservation and Development  
7 Commission pursuant to Section 398.5. Disclosure of projected  
8 specific purchases and actual specific purchases shall each be  
9 accompanied by statements identifying whether the data are  
10 projected or actual, as developed by the California Energy  
11 Resources Conservation and Development Commission, subject  
12 to public hearing.

13 (l) The provisions of this section shall not apply to generators  
14 providing electric service onsite, under an over-the-fence  
15 transaction as described in Section 218, or to an affiliate or  
16 affiliates, as defined in subdivision (a) of Section 372.

17 SEC. 2. Section 398.5 of the Public Utilities Code is amended  
18 to read:

19 398.5. (a) Retail suppliers shall report on May 1, 2004, and  
20 annually thereafter, to the California Energy Resources  
21 Conservation and Development Commission, for each electricity  
22 offering, for the previous calendar year each of the following:

23 (1) The kilowatthours purchased, by generator and fuel type  
24 during the previous calendar year, consistent with the meter data,  
25 including losses, reported to the system operator.

26 (2) For each electricity offering the kilowatthours sold at retail.

27 (3) For each electricity offering the disclosures made to  
28 consumers pursuant to Section 398.4.

29 (b) Information submitted to the California Energy Resources  
30 Conservation and Development Commission pursuant to this  
31 section that is a trade secret as defined in subdivision (d) of Section  
32 3426.1 of the Civil Code shall not be released except in an  
33 aggregated form such that trade secrets cannot be discerned.

34 (c) On or before January 1, 1998, the California Energy  
35 Resources Conservation and Development Commission shall  
36 specify guidelines and standard formats, based on the  
37 requirements of this article and subject to public hearing, for the  
38 submittal of information pursuant to this article.

39 (d) In developing the rules and procedures specified in this  
40 section, the California Energy Resources Conservation and



1 Development Commission shall seek to minimize the reporting  
2 burden and cost of reporting that it imposes on retail suppliers.

3 (e) On or before October 15, 1999, and annually thereafter, the  
4 California Energy Resources Conservation and Development  
5 Commission shall issue a report comparing information available  
6 pursuant to Section 398.3 with information submitted by retail  
7 suppliers pursuant to this section, and with information disclosed  
8 to consumers pursuant to Section 398.4. This report shall be  
9 forwarded to the California Public Utilities Commission.

10 (f) Beginning June 15, 1999, and annually thereafter, the  
11 California Energy Resources Conservation and Development  
12 Commission shall issue a report calculating net system power. The  
13 California Energy Resources Conservation and Development  
14 Commission will establish the generation mix for net generation  
15 imports delivered at interface points and metered by the system  
16 operators.

17 (g) The provisions of this section shall not apply to generators  
18 providing electric service onsite, under an over-the-fence  
19 transaction as described in Section 218, or to an affiliate or  
20 affiliates, as defined in subdivision (a) of Section 372.

21 (h) The California Energy Resources Conservation and  
22 Development Commission may verify the veracity of specific  
23 purchase claims made by retail suppliers.

24 SEC. 3. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.

